



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA

V.

LUIS DUBEGEL

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CRIMINAL CASE NO 1:06-CR-6(1)

REPORT AND RECOMMENDATION
ON DEFENDANT'S COMPETENCY TO STAND TRIAL

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate upon referral from the District Court. The Court now enters its recommendation that Defendant, Luis Dubegel, be found competent to stand trial in this proceeding.

A. Background

On March 9, 2006, pursuant to the motion of counsel, the Court entered its *Order* directing the mental examination of Defendant to determine his competency to stand trial [Clerk's doc. #36]. In that order, the Court directed that Mr. Dubegel be committed to the Medical Center for Federal Prisoners, or another suitable facility, for examination by a psychiatrist or psychologist to determine whether, pursuant to 18 U.S.C. § 4241, he is suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the

proceedings against him.

On May 7, 2006, the warden of the Federal Medical Center in Fort Worth, Texas, issued his notification to the Court that an examiner had completed her psychological evaluation of Mr. Dubegel. Lisa Bellah, Ph.D., opined that Mr. Dubegel is considered competent to stand trial as described in Title 18, United States Code, Section 4241. She further found that although Mr. Dubegel does appear to meet criteria for competency to stand trial, he currently operates within a concrete and simplistic mental ability and, therefore, may require that some terms or concepts be more thoroughly explained to him or repeated. Dr. Bellah also concluded that Mr. Dubegel is functionally illiterate.

The report reflecting her opinion in detail and setting forth the corresponding psychological findings has been filed in the record under seal and forwarded to both Defendant's attorney and the attorney for the Government. On June 8, 2006, the Court conducted a competency hearing to address the findings contained within the report. Neither party objected to the examiner's report. They also agreed with this Court's recommendation that Mr. Dubegel be found competent to stand trial.

B. Conclusion and Recommendation

Accordingly, based upon the opinion issued by Dr. Lisa Bellah, a psychologist with the Federal Medical Center, Fort Worth, Texas, and the agreement of the parties, the undersigned United States Magistrate recommends that the District Court find Luis Dubegel competent to stand trial under 18 U.S.C. § 4241.

C. Objections

Within ten (10) days after receipt of this report, any party may serve and file written

objections to the report and recommendation of the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(c). Failure to file written objections to the proposed findings of facts, conclusions of law and recommendations contained within this report within ten (10) days after service shall bar an aggrieved party from *de novo* review by the District Judge of the proposed findings, conclusions and recommendations, and from appellate review of factual findings and legal conclusions accepted by the District Court except on grounds of plain error. *Douglass v. United Serv. Auto. Ass'n.*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*); 28 U.S.C. § 636(b)(1). The constitutional safeguards afforded by Congress and the courts require that, when a party takes advantage of his right to object to a magistrate's findings or recommendation, a district judge must exercise its nondelegable authority by considering the actual evidence and not merely by reviewing and blindly adopting the magistrate's report and recommendation. *See Hernandez v. Estelle*, 711 F.2d 619, 620 (5th Cir. 1983); *United States v. Elsoffer*, 644 F.2d 357, 359 (5th Cir. 1981) (*per curiam*).

SIGNED this the 9th day of June, 2006.

A handwritten signature in black ink, appearing to read "Keith F. Giblin", written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE